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**OFFICE OF PETITIONS**

In re Application of :  
Reinhold Elfrich : DECISION ON PETITION TO  
Application No. 09/618,181 : WITHDRAW HOLDING OF  
Filed: 18 July, 2000 : ABANDONMENT  
Attorney Docket No. DE 000062 :

This is a decision on the petition filed on 24 January, 2006 (certificate of mailing date 10 May, 2002), to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on 22 October, 2001, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 24 April, 2002.

In response, a petition to withdraw the holding of abandonment was filed on 10 May, 2002 (certificate of mailing date). Petitioners have also provided a copy of a postcard bearing an Office-date of 15 May, 2002, itemizing the filing of the present petition and identifying the application by application number and docket number. Accordingly, the showing of record is that the petition to withdraw the holding of abandonment was timely filed on 10 May, 2002, but was not matched with the file due to Office error. The Office apologizes for the error and regrets any inconvenience to petitioner.

Petitioner asserts that the Notice of Allowance mailed on 22 October, 2001, was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing

required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, a statement has been submitted by the practitioner, Dicran Halajian, stating that the Notice of Allowance was not received as indicated by a search of the file jacket and docket records. Copies of docket records for the above-identified application where the non-received Office action would have been entered had it been received and docketed are attached.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to Technology Center 2600 technical support staff for remailing of the Notice of Allowance. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

  
Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions